S.B. Civil Misc. Appeal No. 76/1992
(LRs. Of Radhey Shyam Vs. State of Rajasthan and Ors.)

Date of order : 11.9.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. H.L. Kela, for the appellants
Mr. Pradeep Shah, for the respondents

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Heard learned counsel for the parties.

The appellant is aggrieved against the order of the civil court dated 16.3.1991 by which the Civil Judge, Bhilwara has passed the award in pursuance of the compromise submitted by both the parties before the civil court on 16.3.1991. The grievance of the appellant is only that certain statutory benefits for which according to the appellant he was entitled under the provisions of the Land Acquisition Act, 1894 (for short 'the Act of 1894') and as amended subsequently have been allowed only for enhanced compensation and has not been allowed on entire compensation in accordance with Section 23(1A), 23(2) and Sec. 34 of the Act of 1894.

It appears from the order dated 16.3.1991 that the learned Civil Judge modified the award of the Land Acquisition Officer dated 30.3.1988 as both the parties submitted a written compromise before the civil court. The respondent agreed for increase of compensation to some extent which was acceptable to the claimants. The appeal is result of ambiguity in the order dated 16.3.1991. It

appears from the compromise as well as from the order dated 16.3.1991 that there was no dispute with respect to the appellant's right for solatium and interest as provided under the Land Acquisition Act, 1894. However, ambiguity came in the order because of the reason that the word “principal” / “original” amount of award has been used which appears to has been used out of context causing confusion. The compromise submitted by the parties is very clear that the parties agreed that the compensation may be increased by Rs.500/- per bigha for unirrigated land, Rs.600/- per bigha for Canal irrigated land or land of Jhawa and by Rs.900/- per bigha for chahi land. The parties agreed that the compensation for well be increased by 5% from the compensation as awarded by the Land Acquisition Officer. It was also agreed that the claimants are entitled to solatium @ 30% and interest @ 12% from the date of notification under Sections 23(2) of the Act of 1894 and 52(2) of the U.I.T. Act (as the land acquisition proceedings were started under the UIT Act) and further interest @ 9% and 15% as provided under Section 34 of the Land Acquisition Act, 1894. The civil court merely incorporated the compromise in its order dated 16.3.1991 and did not quantify the amount. The civil court did not compute the exact compensation for the land and well in view of the compromise between the parties nor it calculated the solatium and interest under the provisions of the Land Acquisition Act. So far as entitlement of the appellant for solatium and interest in accordance with the provisions of the Act of 1894 and as per amendment made

thereafter there is no dispute and there cannot be a dispute.

Therefore, this appeal deserves to be allowance, hence allowed. The order of the learned Civil Judge dated 16.3.1991 is set-aside. The matter is remanded to the court of Civil Judge, Bhilwara for passing a fresh award in accordance with the terms of the compromise. The Civil Court should quantify the exact amount for the land and well and also shall specify the amount of solatium and interest in various heads. It is made clear that the appellant shall be entitled to solatium and interest on entire compensation amount calculated on the basis of increased compensation amount in terms of the compromise and not only on enhanced amount. Both the parties are directed to appear before the court of Civil Judge, Bhilwara on 17.10.2006.

(PRAKASH TATIA), J.

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